

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION

**CIVIL RIGHTS COMPLAINT FORM**  
**TO BE USED BY PRISONERS IN ACTIONS UNDER 42 U.S.C. § 1983**

RAMON ARMAS BARRATO, JR.

Inmate # X 27467  
(Enter full name of Plaintiff)

vs.

AMENDED COMPLAINT  
CASE NO: 5:04 CV 165 - RH / WCS  
(To be assigned by Clerk)

L. Mc DONALD

H. A. PATE

M. SPEIGHT

C. Mc KENZIE

"JANE DOE" KENT

(Enter name and title of each Defendant.

If additional space is required, use the  
blank area below and directly to the right.)

**ANSWER ALL QUESTIONS ON THE FOLLOWING PAGES:**

OFFICE OF CLERK  
U.S. DISTRICT CT  
NORTHERN DIST. FLA.  
TALLAHASSEE, FLA.

04 DEC -6 PM 2:41

*M*

FILED

**I. PLAINTIFF:**

State your full name, inmate number (if applicable), and full mailing address in the lines below.

Name of Plaintiff: RAMON ARMAS BORRATO, JR.

Inmate Number X 27467

Prison or Jail: ~~WVA~~ FLORIDA STATE PRISON

Mailing address: 7819 NW 228th STREET

RAIFORD, FLORIDA

32026

**II. DEFENDANT(S):**

State the name of the Defendant in the first line, official position in the second line, place of employment in the third line, and mailing address. Do the same for every Defendant:

(1) Defendant's name: L. MC DONALD  
Official position: CORRECTIONAL OFFICER  
Employed at: WASHINGTON C.I.  
Mailing address: 4455 SAM MITCHELL DRIVE  
CHIPLEY, FLORIDA 32428

(2) Defendant's name: H. A. PATE  
Official position: CORRECTIONAL OFFICER  
Employed at: WASHINGTON C.I.  
Mailing address: 4455 SAM MITCHELL DRIVE  
CHIPLEY, FLORIDA 32428

(3) Defendant's name: C. MCKENZIE  
Official position: CORRECTIONAL SERGEANT  
Employed at: WASHINGTON C.I.  
Mailing address: 4455 SAM MITCHELL DRIVE  
CHIPLEY, FLORIDA 32428

**ATTACH ADDITIONAL PAGES HERE TO NAME ADDITIONAL DEFENDANTS**

CONTINUATION OF DEFENDANT(S),

II. DEFENDANT(S):

(4) Defendant's name: M. SPEIGHT

Official position: CORRECTIONAL OFFICER

Employed at: WASHINGTON C.I.

Mailing address: 4455 SAM MITCHELL DRIVE  
CHIPLEY, FLORIDA 32428

(5) Defendant's name: "JANE DOE" KENT

Official position: REGISTERED NURSE

Employed at: WASHINGTON C.I.

Mailing address: 4455 SAM MITCHELL DRIVE  
CHIPLEY, FLORIDA 32428

NOTE: THE COURT WILL NOT REVIEW THE MERITS OF THE COMPLAINT UNLESS THE FOLLOWING QUESTIONS HAVE BEEN ANSWERED REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES AND ANY PRIOR LAWSUITS THAT HAVE BEEN FILED.

### III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Exhaustion of administrative remedies is required prior to pursuing a civil rights action regarding conditions or events in any prison, jail, or detention center. 42 U.S.C. § 1997e(a). Plaintiff must submit copies of all grievances, appeals, and responses with this complaint to verify exhaustion. Failure to demonstrate exhaustion may be grounds for dismissal.

#### A. DOES YOUR COMPLAINT CONCERN EVENTS OCCURRING WITHIN THE FLORIDA DEPARTMENT OF CORRECTIONS?

~~Yes~~(☒) No(☐)

[If your answer is NO, proceed to Question B. If your answer is YES, answer all of the following questions in this subsection.]

##### 1. Informal Grievance

a. Did you submit an informal grievance?

Yes(☐) ~~No~~(☒)

❖ If so, you must attach a copy of the grievance and response; exhibit \_\_\_\_.

b. If not, why? \_\_\_\_\_

##### 2. Formal Grievance

a. Did you submit a formal grievance?

Yes(☐) ~~No~~(☒)

❖ If so, you must attach a copy of the grievance and response; exhibit \_\_\_\_.

b. If not, why? \_\_\_\_\_

##### 3. Appeal to the Office of the Secretary

a. Did you submit an appeal to the Office of the Secretary?

~~Yes~~(☒) No(☐)

❖ If so, you must attach a copy of the appeal and response; exhibit A+B.

b. If not, why? \_\_\_\_\_

**4. Disciplinary Actions**

- a. Did you have a disciplinary hearing concerning this matter?

Yes( ) No(☒)

❖ If so, you must attach a copy of the disciplinary report and disciplinary hearing team's findings and decision to this form; exhibit \_\_\_\_\_.

- b. Did you lose gaintime as a result of the disciplinary hearing?

Yes( ) No(☒)

- c. Has the gaintime since been restored?

Yes( ) No(☒)

**B. DOES YOUR COMPLAINT CONCERN EVENTS OCCURRING WITHIN A COUNTY JAIL OR DETENTION CENTER?**

Yes( ) No(☒)

[If your answer is NO, proceed to Section IV of the complaint form.  
If your answer is YES, answer the following questions.]

1. Is there a grievance procedure at your institution or jail?

Yes( ) No( )

[If your answer is NO, proceed to Section IV of the complaint form. If your answer is YES, answer all of the following questions in this subsection.]

2. Did you submit a grievance concerning the facts relating to your complaint?

Yes( ) No( )

3. If your answer is YES:

a. What steps did you take? \_\_\_\_\_

b. What were the results? \_\_\_\_\_

❖ If so, you must attach a copy of the grievance and response; exhibit \_\_\_\_\_.

4. If your answer is NO, explain why not: \_\_\_\_\_

\_\_\_\_\_

NOTE: FAILURE TO DISCLOSE **ALL** PRIOR CIVIL CASES MAY RESULT IN THE DISMISSAL OF THIS CASE. IF YOU ARE UNSURE OF ANY PRIOR CASES YOU HAVE FILED, THAT FACT MUST BE DISCLOSED AS WELL.

**IV. PREVIOUS LAWSUITS**

A. Have you initiated other actions in **state court** dealing with the same or similar facts/issues involved in this action?

Yes( ) No(☒)

1. Parties to previous action:

a. Plaintiff(s): \_\_\_\_\_

b. Defendant(s): \_\_\_\_\_

2. Name of judge: \_\_\_\_\_ Case #: \_\_\_\_\_

3. County and judicial circuit: \_\_\_\_\_

4. Name of judge: \_\_\_\_\_

5. Approximate filing date: \_\_\_\_\_

6. If not still pending, date of dismissal: \_\_\_\_\_

7. Reason for dismissal: \_\_\_\_\_

8. Facts and claims of case: \_\_\_\_\_

**(Attach additional pages as necessary to list state court cases.)**

B. Have you initiated other actions in **federal court** dealing with the same or similar facts/issues involved in this action?

Yes( ) No(☒)

1. Parties to previous action:

a. Plaintiff(s): \_\_\_\_\_

b. Defendant(s): \_\_\_\_\_

2. District and judicial division: \_\_\_\_\_

3. Name of judge: \_\_\_\_\_ Case #: \_\_\_\_\_

4. Approximate filing date: \_\_\_\_\_

5. If not still pending, date of dismissal: \_\_\_\_\_

6. Reason for dismissal: \_\_\_\_\_

7. Facts and claims of case: \_\_\_\_\_

**(Attach additional pages as necessary to list other federal court cases.)**

- C. Have you initiated other actions (*besides those listed above in Questions (A) and (B)*) in **either state or federal court** that relate to the fact or manner of your incarceration (including habeas corpus petitions) or the conditions of your confinement (including civil rights complaints about any aspect of prison life, whether it be general circumstances or a particular episode, and whether it involved excessive force or some other wrong)?

Yes( ☒ )No( ☐ )

If YES, describe each action in the space provided below. If more than one action, describe all additional cases on a separate piece of paper, using the same format as below.

1. Parties to previous action:
  - a. Plaintiff(s): RAMON BARRATO, JR.
  - b. Defendant(s): JAMES V. CROSBY, JR.
2. District and judicial division: EIGHTH JUDICIAL CIRCUIT
3. Name of judge: ELZIE S. SANDERS Case #: 04-2004-CA-0264
4. Approximate filing date: MAY 11, 2004
5. If not still pending, date of dismissal: \_\_\_\_\_
6. Reason for dismissal: \_\_\_\_\_
7. Facts and claims of case: CHALLENGING HOUSING AND LIVING CONDITIONS IN PUNITIVE SEGREGATION

(Attach additional pages as necessary to list cases.)

- D. Have you ever had any actions in **federal court** dismissed as frivolous, malicious, failing to state a claim, or prior to service? If so, identify each and every case so dismissed:

Yes( ☐ )No( ☒ )

1. Parties to previous action:
  - a. Plaintiff(s): \_\_\_\_\_
  - b. Defendant(s): \_\_\_\_\_
2. District and judicial division: \_\_\_\_\_
3. Name of judge: \_\_\_\_\_ Case Docket # \_\_\_\_\_
4. Approximate filing date: \_\_\_\_\_ Dismissal date: \_\_\_\_\_
5. Reason for dismissal: \_\_\_\_\_

(Attach additional pages as necessary to list cases.)

**V. STATEMENT OF FACTS:**

State briefly the FACTS of this case. Describe how each Defendant was involved and what each person did or did not do which gives rise to your claim. In describing what happened, state the names of persons involved, dates, and places. Do not make any legal arguments or cite to any cases or statutes. You must set forth separate factual allegations in separately numbered paragraphs. You may make copies of this page if necessary to supply all the facts. Barring extraordinary circumstances, no more than five (5) additional pages should be attached. (If there are facts which are not related to this same basic incident or issue, they must be addressed in a separate civil rights complaint.)

An November 28, 2002 at approximately 8:30 a.m., Plaintiff was housed in cell C4-101 L when Ofc. L. McDonald and Ofc. H.A. Pate came to the Plaintiff's cell. Plaintiff was then handcuffed and escorted out of his cell by Officers McDonald and H. Pate to the Nurses' Station adjacent to C- Dorm \ Quad 3. Officer M. Speight, Nurse Jane Doe Kent, and Sgt. C. McKenzie were inside the room prior to the Plaintiff enter it. The Plaintiff then entered the Nurses' Station while handcuffed with his hands in the back, close to the wall. Ofc. L. McDonald commence to punch Plaintiff repeatedly in his abdominal area, pushed Plaintiff's head down and repeatedly punched Plaintiff with his right hand in the back of his head, hit Plaintiff on his left ear, placed Plaintiff's head between his legs and grabbed Plaintiff around his waist and picked the Plaintiff up off the ground and dropped Plaintiff on his head. Nurse Kent then said, "Stop, Stop," and that's when Sgt. McKenzie said "OK, that's enough". Ofc. H. Pate stood in front of the window the entire time so that no one can witness the incident. Ofc. M. Speight stood there and watch the incident without intervening. Sgt. C. McKenzie then grabbed the Plaintiff by his right arm and lifted him up to his feet and escorted the Plaintiff back to his cell. During these events, the Plaintiff sustained bruises on left ear, back of head and swelling to the abdominal area of his body from being repeatedly punched by Ofc. LMC. Donald. During these events, Inmates David Blake Brooks and



Ronald Cain DC# 736165 observe the bruise on the Plaintiff's Left Ear prior to being place back in his cell. Then, on said date at approximately 6:30 p.m., the Plaintiff declared a Medical Emergency to Sgt. English in which he denied. The Plaintiff declared another Medical Emergency at 11:00 p.m., and was finally examined by Nurse J. Canger and all injuries was documented. Pursuant to Prison Procedure, the Plaintiff filed an Emergency Grievance directly to the Secretary's Office concerning the Assault. On December 2, 2002, Plaintiff was threaten by Sgt. C. McKenzie, Afc. M. Spight and Lt. T. Capeland to keep quiet about the incident. The Plaintiff then cut his wrist in order to get move out of the dorm out of fear. While the Plaintiff was in Temporary Housing Unit, Captain John Doe came to see Plaintiff and had the Grievance the Plaintiff filed to the Secretary's Office in his hand. The Nurse, Jane Doe, who accompanied him (Captain John Doe) verified that the Plaintiff's bruises was caused by a punch. Plaintiff did not receive the Grievance back, but received an receipt from the Grievance. Then, on December 19, 2002, Inspector Kraus from the IAC's Office interviewed the Plaintiff and the Plaintiff gave a Sworn Statement concerning the incident and thereafter immediately transferred away from Washington C.I. to Santa Rosa C.I.. The Plaintiff filed another Emergency Grievance in January of the same nature and the Grievance was not responded to or returned.

**VI. STATEMENT OF CLAIMS:**

State what rights under the Constitution, laws, or treaties of the United States you claim have been violated. Be specific. Number each separate claim and relate it to the facts alleged in Section V. If claims are not related to the same basic incident or issue, they must be addressed in a separate civil rights complaint.

1. The actions of defendant Mc Donald in repeatedly punching the Plaintiff in his abdominal area, ear, and head and picking the Plaintiff up and dropped him on his head to the ground, constituted Cruel and Unusual Punishment in violation of the Eighth Amendment to the United States Constitution and Assault and Battery under State law, and 4<sup>th</sup> constitutional Amendment.

2. The failure of defendants H. Pate, M. Speight, Jane Doe Kent and C. McKenzie to take corrective action as they watched the Assault and Battery, constituted deliberate indifference.

**VII. RELIEF REQUESTED:**

State briefly what relief you seek from the Court. Do not make legal arguments or cite to cases/ statutes.

WHEREFORE, plaintiff requests that the Court herein allows the defendants herein to be sued in their "individual capacities" and that compensatory and punitive damages be awarded to the Plaintiff in the amount of \$50,000 against defendant Mc Donald and \$25,000 each against defendants Pate, Speight,

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS OF FACT, INCLUDING ALL CONTINUATION PAGES, ARE TRUE AND CORRECT.

11/21/04

(Date)

R B

(Signature of Plaintiff)

**IF MAILED BY PRISONER:**

I declare (or certify, verify, or affirm) under penalty of perjury that this complaint was (check one):

☒ delivered to prison officials for mailing or ☐ deposited in the prison's internal mail system on: the 24<sup>th</sup> day of November, 2004.

R B

(Signature of Plaintiff)

Revised 07/02

**LEGAL MAIL**  
**PROVIDED TO**  
**FLORIDA STATE PRISON**  
**DATE 11/24/04 FOR MAILING.**  
**INMATES INITIALS R B**

8-A


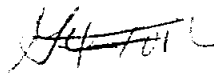
CONTINUATION OF RELIEF REQUESTED:

McKenzie and Kent, for physical, mental, emotional and psychological harm suffered by plaintiff as a result of numerous indignities and unconstitutional punishment perpetrated by the defendants with malicious purposes, gross negligence, and deliberate indifference. The Plaintiff further requests that the defendants be required to pay all legal cost and fees, including Attorney's fees in the event Counsel is appointed for plaintiff and plaintiff demands trial by jury.

ISV 

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PART C - RECEIPT (TO BE COMPLETED BY DC STAFF)

RETURN TO: ALTERNATE HOUSING  

LAST BORRERO MIDDLE INITIAL RAMON NUMBER X27467 INSTITUTION WASHINGTON C.I.

I ACKNOWLEDGE RECEIPT THIS DATE OF A GRIEVANCE FROM THE ABOVE INMATE IN REGARD TO THE FOLLOWING SUBJECT:

5DISCIPLINE

DATE 12/3/02

02-12025 INMATE LOG NUMBER

RECIPIENT'S SIGNATURE (STAFF MEMBER)  LYKINS

DISTRIBUTION:  
WHITE COPY  
CANARY COPY  
PINK COPY  
GOLDENROD COPY

INSTITUTION/FACILITY  
INMATE COPY  
INMATE'S FILE  
INMATE COPY  
RETAINED BY OFFICIAL RESPONDING

DISTRIBUTION:  
WHITE COPY  
CANARY COPY  
PINK COPY  
GOLDENROD COPY

CENTRAL OFFICE  
INMATE COPY  
INMATE'S FILE - INST./FACILITY  
C.O. INMATE FILE  
RETAINED BY OFFICIAL RESPONDING

DC1-303 (Revised 8-00)

EXHIBIT A

B21215

**STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS**

**(Instructions on Back)**

Mail Number: \_\_\_\_\_  
Team Number: \_\_\_\_\_  
Institution: \_\_\_\_\_

☐ Warden  
☐ Asst. Warden

☐ Classification  
☐ Security

☐ Medical  
☐ Dental

☒ Other  
MR CASTLE

<b>FROM:</b>	Inmate Name	DC Number	Quarters	Job Assignment	Date
	Ramon Borroto	X27467	G-1219-L		9/19/03

## REQUEST

- 1 I need you to please have trace grievance log number 02-12025 at Washington C.I. on date 12/3/02 it was filed signed by L. Lyhins. I have the receipt.
- 2 I also need you to check the computer here on the following grievances to see if any ~~are~~ have something to do with a staff assault which occurred at Washington C.I. Log # 03-602030 dated 1-17-03 signed by Ms. Blocker; Log # 03605883 dated 2-27-03; This receipt doesn't have a log # only says MRO3-0017A signed by Ms. Blocker; Log # 03604832 dated 2-14-03 signed by Ms. Blocker; 3 the last one again only has MRO3-00196 dated 2-26-03 by Mrs. Italian.
- 3 I know I filed an emergency grievance on a staff assault but I think I wrote Washington where it says "Institution" instead of Santa Rosa. Thank you for your help. I wrote it around January.

All requests will be handled in one of the following ways: 1) Written Information or 2) Personal Interview. All informal grievances will be responded to in writing.

**DO NOT WRITE BELOW THIS LINE**

## RESPONSE

DATE RECEIVED: \_\_\_\_\_

TIME HAS EXPIRED IN WHICH FURTHER ADVISANCE ON THE U.S. AIRPORT WAS GIVEN TO ABN.	
THE FOLLOWING INFORMATION IS FOR THE RECORD ONLY:	
THE NAME AND ADDRESS OF THE OFFICE OF THE GENERAL OFFICE REGARDING A COMPLAINT - [REDACTED] - IS AN APPEAL # 03 - C - 27602 WHICH WAS RECEIVED ON [REDACTED]	
[The following pertains to informal grievances only:]	
Based on the above information, your grievance is <u>NA</u> . (Returned, Denied, or Approved). If your informal grievance is denied, you have the right to submit a formal grievance in accordance with Chapter 33-103.006, F.A.C.]	
Official (Signature): R. Castle	Date: 8/13/2003

Distribution: White -Returned to Inmate Pink -Retained by official responding, or if the response is to an  
Canary -Returned to Inmate informal grievance then forward to be placed in inmate's file.